

REMARKS

Claims 1-26 are pending in the application. In a Final Office Action mailed July 13, 2004, Claims 1-6, 9-22, 25, and 26 were rejected under 35 U.S.C. § 112, second paragraph. Claims 7, 8, 23, and 24 were objected to as being dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.¹ Claims 1, 2, 4, 6, 7, 16, 18, 20, 22, 23, and 26 are amended, Claim 17 canceled, and Claims 27 and 28 added by way of this amendment and response.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-6, 9-22, 25, and 26 were rejected under 35 U.S.C. § 112, second paragraph, for being incomplete. The Office Action stated that the "claims must include drive chains 16 and 18 and pivot rods 14 for the chain to be complete." Applicants respectfully disagree with the position that the foregoing claims "must include drive chains" and "pivot rods."

Applicants respectfully submit that 35 U.S.C. § 112, second paragraph, does not require applicants to recite the specific elements used in the preferred embodiment for coupling the pickets to one another (i.e., the drive chains and pivot rods) for the conveyor belt to be complete, but must only clearly and distinctly point out the subject matter which the applicants regard as their invention. Although applicants are required to disclose a preferred embodiment to enable one skilled in the art to make and use the invention, applicants are not required to specifically claim each element of the preferred embodiment as shown in the illustrated embodiment. "If the scope of subject matter embraced by a claim is clear, and if the applicant has not otherwise

¹ Applicants respectfully note that Claim 1, as well as certain other claims, has been rejected only for reasons of formality under 35 U.S.C. § 112. Therefore, applicants understand that these claims are otherwise allowable if the rejections under 35 U.S.C. § 112, second paragraph, are overcome.

indicated that he intends the claim to be of a different scope, the claim does particularly point out and distinctly claim the subject matter which the applicant regards as his invention." *In re Borkowski*, 57 CCPA 946, 952, 422 F. 2d 904, 909, 164 USPQ 642, 646 (1970). "The claims need only make it clear what subject matter they encompass and make clear the subject matter from which they would preclude others." *In re Hammack*, 57 CCPA 1225, 1230, 427 F.2d 1378, 1382, 166 USPQ 204, 208 (1970).

However, to expedite allowance of the claims, applicants have amended the independent claims of the application to recite interconnecting structure as requested by the examiner. More specifically, applicants have amended Claim 1 to recite "a connecting assembly for coupling the first picket to the second picket and a drive assembly for engaging and imparting motion to the conveying surface." Applicants have amended Claim 16 to similarly recite "a plurality of connecting members for connecting the plurality of pickets to one another and a drive assembly for engaging and imparting motion to the conveying surface." Claim 26 similarly recites "a first endless member and a second endless member" which are coupled to the conveyor belt and can be driven to impart motion to the conveying surface and "at least one connecting member for coupling two or more of the plurality of pickets to one another."

Applicants submit that the claims, as amended, particularly point out and distinctly claim the subject matter which the applicants' regard as their invention, that all elements of the claim are properly related to one another, and that the claims are complete. Thus, applicants submit that the rejection of Claims 1, 16, and 26, and those claims depending thereon, under 35 U.S.C. § 112, second paragraph, should be withdrawn.

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESSSM
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

Objected Claims

Applicants thank the Examiner for noting the allowability of Claims 7, 8, 23, and 24 if rewritten in independent form including all of the limitation of the base claim and any intervening claims.

New Claims 27 and 28

New Claims 27 and 28 have been added to further point out and distinctly claim the novel aspects of the claimed embodiments of the present invention. Applicants submit that the prior art, alone or in combination, does not teach or suggest applicants' claimed embodiments of the present invention as recited in Claims 27 and 28. Therefore, applicants submit that new Claims 27 and 28 are allowable over the prior art.

Amendments to the Drawings

A replacement sheet containing FIGURES 5 and 6 has been provided for Examiner's review and approval. The replacement sheet is provided on separate paper attached hereto and is identified in the top margin with the text "Replacement Sheet." The replacement sheet contains a single correction of a typographical error identified with regard to FIGURE 5. More specifically, the reference numeral "24" incorrectly typed near the top right corner of FIGURE 5 has been replaced with a new correct reference numeral, reference numeral "48."

CONCLUSION

In view of the foregoing remarks and amendments, applicants respectfully submit that the present application is in condition for allowance. Reconsideration and reexamination of the application, as amended, and allowance of the claims at an early date is solicited. If the

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{LLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

Examiner has any questions or comments concerning this matter, the Examiner is invited to contact applicants' undersigned attorney at the number below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}

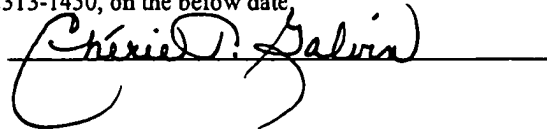


Brian D. Krell
Registration No. 51,899
Direct Dial No. 206.695.1638

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop After Final, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date:

Sept. 21, 2004



BDK:bdk

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100